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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/565,528

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Jon Grant

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Law Office of Michael D. Eisenberg
Intellectual Property Law
6023 Vista De La Mesa
La Jolla, CA 92037

EXAMINER

TIETJEN, MARINA ANNETTE

ART UNIT

PAPER NUMBER

3753

NOTIFICATION DATE

DELIVERY MODE

04/24/2009

ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

meisenberg@mdepatents.com

Office Action Summary	Application No. 10/565,528	Applicant(s) GRANT, JON	
	Examiner MARINA TIETJEN	Art Unit 3753	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 22 January 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-4 and 7-12 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-4 and 7-12 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 23 January 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 1/22/2009 has been entered.

Response to Arguments

2. Applicant's arguments with respect to claims 1-4 and 7-12 have been considered but are moot in view of the new ground(s) of rejection. Due to the RCE filed 1/22/2009 the instant Office action has been made non-final.

Response to Amendment

3. This office action is responsive to the amendment filed on 01/22/2009. As directed by the amendment: claims 1 and 2 have been amended and claims 5, 6, and 13 were cancelled in an amendment filed 08/12/2008. Thus, claims 1-4, 7-12 are presently pending in this application.

Specification

4. The disclosure is objected to because of the following informalities: Section headings are missing. The following guidelines illustrate the preferred layout for the specification of a utility application. These guidelines are suggested for the applicant's use.

Art Unit: 3753

Arrangement of the Specification

As provided in 37 CFR 1.77(b), the specification of a utility application should include the following sections in order. Each of the lettered items should appear in upper case, without underlining or bold type, as a section heading. If no text follows the section heading, the phrase "Not Applicable" should follow the section heading:

- (a) TITLE OF THE INVENTION.
- (b) CROSS-REFERENCE TO RELATED APPLICATIONS.
- (c) STATEMENT REGARDING FEDERALLY SPONSORED RESEARCH OR DEVELOPMENT.
- (d) THE NAMES OF THE PARTIES TO A JOINT RESEARCH AGREEMENT.
- (e) INCORPORATION-BY-REFERENCE OF MATERIAL SUBMITTED ON A COMPACT DISC.
- (f) BACKGROUND OF THE INVENTION.
 - (1) Field of the Invention.
 - (2) Description of Related Art including information disclosed under 37 CFR 1.97 and 1.98.
- (g) BRIEF SUMMARY OF THE INVENTION.
- (h) BRIEF DESCRIPTION OF THE SEVERAL VIEWS OF THE DRAWING(S).
- (i) DETAILED DESCRIPTION OF THE INVENTION.
- (j) CLAIM OR CLAIMS (commencing on a separate sheet).
- (k) ABSTRACT OF THE DISCLOSURE (commencing on a separate sheet).
- (l) SEQUENCE LISTING (See MPEP § 2424 and 37 CFR 1.821-1.825. A "Sequence Listing" is required on paper if the application discloses a nucleotide or amino acid sequence as defined in 37 CFR 1.821(a) and if the required "Sequence Listing" is not submitted as an electronic document on compact disc).

5. Appropriate correction is required.

Claim Rejections - 35 USC § 102

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Art Unit: 3753

7. Claims 1-4, 8-12 are rejected under 35 U.S.C. 102(b) as being anticipated by Roethel (U.S. Pat. No. 5,031,662).

Roethel discloses a valve (12, fig. 1) capable of selectively providing access to a supply of drinking fluid retained within a portable flexible container, the valve (12) comprising:

a tubular body (60, 98) having at one end a stem (64) *insertable into an opening in communication with the container* (limitation in italics is functional language, wherein Roethel's valve includes this capability) and at its other end an outlet (opening of 98 opposite of wall 66; Roethel's valve is capable of being used with a reversed direction of fluid flow) *through which fluid from the container can leave the valve* (12);

a piston (78, 70, 68) mounted for sliding movement within a central bore of the body (60);

a coil spring (94) for urging the piston (78 ring portion) into engagement with an annular seating (inner surface of 78 against which o-ring 76 seals) positioned at the bore end closest to the outlet (opening in 98);

a separable connector (10) for moving the piston (78 ring portion) against the action of the coil spring (94) to enable fluid to be drawn from the container past the piston (78, 70, 68) and through the outlet (opening in 98), the connector (10) comprising a housing (18) partially closed at one end by a plate (32) and having at the other end an annular ring (46 in fig. 6) that is movable towards the plate (32) only when the connector (10) is connected to the valve (12) to provide an aperture (fig. 2) through which fluid can pass into and through the connector (10);

Art Unit: 3753

wherein the container can be connected to the valve (12) through a flexible conduit (col. 4, lines 26-30) one end of which defines the opening of the conduit remote from the container;

wherein the stem (64) is formed with two or more annular serrations or steps (fig. 1) to assist retention within the opening in communication with the container;

wherein the piston (78, 70, 68) includes one or more internal open-ended passageways (66, fig. 5) through which water drawn into the valve (12) can pass to the outlet when the piston is moved away from its seating;

wherein the outlet (opening of 98) is formed in a tubular end piece (98) of the body (60, 98);

wherein the end of the piston (78, 70) remote from the stem (64) is positioned below the outlet (opening of 98);

wherein the piston (78 ring portion) is movable from its position in sealing engagement with the annular seating (inner surface of 78 against which o-ring 76 seals) by a male member (connector 10 and rod 58) carried by a conduit (20, fig. 2); and

wherein the male member (connector 10 and rod 58) comprises a tubular casing (24) in which is mounted a central rod (58) spaced from an internal wall of the casing (24) by an annular seal (46) displaceable through contact with the piston end (78, 70).

Note, regarding claim 1, the recitation “for selectively providing access to a supply of drinking fluid retained within a portable flexible container” has not been given patentable weight because it has been held that a preamble is denied the effect of a limitation where the claim is drawn to a structure and the portion of the claim following

Art Unit: 3753

the preamble is a self-contained description of the structure not depending for completeness upon the introductory clause. *Kropa v. Robie*, 88 USPQ 478 (CCPA 1951).

8. Claims 1-4, 7-12 are rejected under 35 U.S.C. 102(b) as being anticipated by Saito (U.S. Pat. No. 5,494,073).

Saito discloses a valve (39, fig. 2) capable of selectively providing access to a supply of drinking fluid retained within a portable flexible container, the valve (39) comprising:

a tubular body (40) having at one end a stem (41) *insertable into an opening in communication with the container* (limitation in italics is functional language, wherein Saito's valve includes this capability) and at its other end an outlet (opening of 49) *through which fluid from the container can leave the valve (39)*;

a piston (46) mounted for sliding movement within a central bore of the body (40);

a coil spring (48) for urging the piston (46) into engagement with an annular seating (50) positioned at the bore end closest to the outlet (opening in 49);

a separable connector (2) for moving the piston (46) against the action of the coil spring (48), the connector (2) comprising a housing (3) partially closed at one end by a plate (7) and having at the other end an annular ring (17) that is movable towards the plate (7) only when the connector (2) is connected to the valve (39) to provide an aperture (fig. 3) through which fluid can pass into and through the connector (2);

Art Unit: 3753

wherein the container can be connected to the valve (39) through a flexible conduit (54, fig. 2) one end of which defines the opening of the conduit remote from the container;

wherein the stem (41) is formed with two or more annular serrations or steps (threads) to assist retention within the opening in communication with the container;

wherein the annular seating (50) is tapered inwardly towards the outlet of the valve (39) with the piston end (46c) closest to the outlet (opening in 49) being similarly tapered to provide an effective seal as the piston (46) is urged by the spring (48) into contact with the seating (50);

wherein the piston (46) includes one or more internal open-ended passageways (46a) through which water drawn into the valve (39) can pass to the outlet when the piston (46) is moved away from its seating (50);

wherein the outlet (opening of 49) is formed in a tubular end piece (49) of the body (40);

wherein the end of the piston (46) remote from the stem (41) is positioned below the outlet (opening of 49);

wherein the piston (46) is movable from its position in sealing engagement with the annular seating (50) by a male member (connector 2 with rod 9) carried by a conduit (34); and

wherein the male member (connector 2 and rod 9) comprises a tubular casing (3) in which is mounted a central rod (9) spaced from an internal wall of the casing (3) by an annular seal (17, 22) displaceable through contact with the piston end (46).

Art Unit: 3753

Note, regarding claim 1, the recitation “for selectively providing access to a supply of drinking fluid retained within a portable flexible container” has not been given patentable weight because it has been held that a preamble is denied the effect of a limitation where the claim is drawn to a structure and the portion of the claim following the preamble is a self-contained description of the structure not depending for completeness upon the introductory clause. *Kropa v. Robie*, 88 USPQ 478 (CCPA 1951).

Claim Rejections - 35 USC § 103

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

10. Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Roethel (U.S. Pat. No. 5,031,662) in view of Saito (U.S. Pat. No. 5,494,073).

Roethel discloses a valve (12, fig. 1) capable of selectively providing access to a supply of drinking fluid retained within a portable flexible container, the valve (12) comprising:

a tubular body (60, 98) having at one end a stem (64) *insertable into an opening in communication with the container* (limitation in italics is functional language, wherein Roethel's valve includes this capability) and at its other end an outlet (opening of 98

Art Unit: 3753

opposite of wall 66) *through which fluid from the container can leave the valve* (12)

(Roethel's valve is capable of being used with a reversed direction of fluid flow);

a piston (78, 70, 68) mounted for sliding movement within a central bore of the body (60);

a coil spring (94) for urging the piston (78 ring portion) into engagement with an annular seating (inner surface of 78 against which o-ring 76 seals) positioned at the bore end closest to the outlet (opening in 98);

a separable connector (10) for moving the piston (78 ring portion) against the action of the coil spring (94) to enable fluid to be drawn from the container past the piston (78, 70, 68) and through the outlet (opening in 98), the connector (10) comprising a housing (18) partially closed at one end by a plate (32) and having at the other end an annular ring (46 in fig. 6) that is movable towards the plate (32) only when the connector (10) is connected to the valve (12) to provide an aperture (fig. 2) through which fluid can pass into and through the connector (10);

wherein the container can be connected to the valve (12) through a flexible conduit (col. 4, lines 26-30) one end of which defines the opening of the conduit remote from the container;

wherein the stem (64) is formed with two or more annular serrations or steps (fig. 1) to assist retention within the opening in communication with the container;

wherein the piston (78, 70, 68) includes one or more internal open-ended passageways (66, fig. 5) through which water drawn into the valve (12) can pass to the outlet when the piston is moved away from its seating;

Art Unit: 3753

wherein the outlet (opening of 98) is formed in a tubular end piece (98) of the body (60, 98);

wherein the end of the piston (78, 70) remote from the stem (64) is positioned below the outlet (opening of 98);

wherein the piston (78 ring portion) is movable from its position in sealing engagement with the annular seating (inner surface of 78 against which o-ring 76 seals) by a male member (connector 10 and rod 58) carried by a conduit (20, fig. 2); and

wherein the male member (connector 10 and rod 58) comprises a tubular casing (24) in which is mounted a central rod (58) spaced from an internal wall of the casing (24) by an annular seal (46) displaceable through contact with the piston end (78, 70).

However, Roethel does not disclose the annular seating is tapered inwardly towards the outlet of the valve with the piston end closest to the outlet being similarly tapered to provide an effective seal as the piston is urged by the spring into contact with the seating.

Saito teaches an annular seating (46c, fig. 2) tapered inwardly towards the outlet (opening in 49) of a valve with a piston end (46) similarly tapered for the purpose of providing a superior seal and because it is well known to provide a tapered valve head with a tapered seat.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Roethel's invention such that the annular seating is tapered inwardly towards the outlet of the valve with the piston end closest to the outlet

Art Unit: 3753

being similarly tapered, as taught by Saito, for the purpose of providing a superior seal and because it is well known to provide a tapered valve head with a tapered seat.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to MARINA TIETJEN whose telephone number is (571) 270-5422. The examiner can normally be reached on Mon-Thurs, 9:30AM-5:00PM EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, ROBIN EVANS can be reached on (571) 272-4777. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/M. T./
Examiner, Art Unit 3753

/John K. Fristoe Jr./

Application/Control Number: 10/565,528

Page 12

Art Unit: 3753

Primary Examiner, Art Unit 3753